

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
BARBARA SCHULTZ,

Plaintiff,

-against-

MARTIN CHEN,

Defendant.
-----X

**STATEMENT
PURSUANT TO
RULE 56.1(a)**

17 CV 8917
(RWS) (GWG)

DAVID H. SCHULTZ, declares as follows, pursuant to 28 U.S.C. § 1746:

1. I am a member of the firm of BARRY McTIERNAN & MOORE LLC, attorneys for plaintiff Barbara Schultz in the above entitled action. As such I am fully familiar with all of the facts and circumstances of this case based upon a review of the case file maintained by this office.

2. This statement is made pursuant to Rule 56.1(a) of the Local Court Rules for the United States District Court, Southern District of New York. The following material facts are not and cannot be disputed in any regard by the parties to this action.

3. Central Park West between West 94th Street and West 95th Street in New York County is a two-way road with two lanes for travel and a third lane for parking in both the northbound and southbound directions. (Exhibit "C", ¶ 4; Exhibit "D", ¶ 4).

4. On December 4, 2016, plaintiff Barbara Schultz was a front seat passenger of a motor vehicle operated by her husband, K. Paul Schultz. (Exhibit "C", ¶ 2; Exhibit "D", ¶ 2).

5. At approximately 5:00 p.m., Mr. Schultz stopped his vehicle in front of 350 Central Park West between West 94th Street and West 95th Street to drop Mrs. Schultz off at a relative's apartment. Once Mrs. Schultz had departed the vehicle, Mr. Schultz intended to either park the car in an open spot on a side street or in a garage. (Exhibit "C", ¶ 3; Exhibit "D", ¶ 3).

6. In light of the fact that there were vehicles in the southbound parking lane in front of 350 Central Park West, Mr. Schultz stopped his vehicle in the rightmost lane for southbound travel. (Exhibit "C", ¶ 4; Exhibit "D", ¶ 4).

7. Mr. Schultz activated the vehicle's blinking rear lights as he approached the building. (Exhibit "C", ¶ 5; Exhibit "D", ¶ 5).

8. Mr. Schultz brought the vehicle to a stop in front of 350 Central Park West and did not turn off the blinking rear lights. (Exhibit "C", ¶ 6; Exhibit "D", ¶ 6).

9. The vehicle remained in this position for approximately one to two minutes while Mr. and Mrs. Schultz had a discussion concerning packages they had brought to their relative. (Exhibit "C", ¶ 7; Exhibit "D", ¶ 7).

10. While the Schultz vehicle was stopped in traffic with the rear blinkers activated, it was struck in the rear by another vehicle, causing Mrs. Schultz to suffer physical injuries. (Exhibit "C", ¶ 8; Exhibit "D", ¶ 8).

11. After the accident, the police arrived at the scene. The responding officers and Mr. Schultz ascertained that the vehicle that struck the Schultz vehicle, a motor vehicle bearing license plate number GBV6989, New York, was owned and operated by Martin Chen, the defendant herein. (Exhibit "C", ¶ 9; Exhibit "D", ¶ 9; Exhibit "E").

12. Mr. Chen admits that he owned and operated the motor vehicle bearing license plate number GBV6989, New York that struck the Schultz vehicle in the rear. (Exhibit "B").

Dated: New York, New York
December 19, 2017



DAVID H. SCHULTZ (DS 1365)